

# Utah Money Management Council

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mmcouncil@utah.gov



MONEY MANAGEMENT COUNCIL MEETING  
THURSDAY FEBRUARY 20, 2014  
AT THE OFFICES OF US BANK  
170 SOUTH MAIN STREET  
6TH FLOOR  
3:00 PM

## A G E N D A

1. NOMINATE AND VOTE FOR CHAIR AND VICE CHAIR
2. APPROVAL OF THE MINUTES OF THE JANUARY 16, 2014 MEETING
3. MONTHLY REPORTS
  - A) Division of Securities
  - B) Department of Financial Institutions
  - C) Deposit and Investment report update
  - D) Review of enforcement actions on financial institutions
4. REVIEW OF STATE TREASURER'S 12/31/13 D&I REPORT
5. REVIEW COMMENTS REGARDING RULE 21
6. FOREIGN EXCHANGE HEDGE-UNIVERSITY OF UTAH
7. OTHER BUSINESS AS NEEDED
8. SCHEDULE NEXT MEETING

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify Kathy Wilkey, Administrative Assistant, at Room 180 State Capitol Building, (801) 538-1468.

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**STATE MONEY MANAGEMENT COUNCIL-MINUTES**  
**THURSDAY JANUARY 16, 2014**

The regular meeting of the State Money Management Council was held in the Offices of the State Treasurer, 350 North State Street, Suite 180 at 3:00 p.m., Thursday, January 16, 2014. In attendance were:

Mark McRae, Chair  
Mark Watkins, Vice Chair  
John Bond  
Ann Pedroza, Staff  
David Damschen, Deputy State Treasurer  
Tom Bay, Department of Financial Institutions  
Michele Black, Securities Division  
Andy Robbins, Moreton Asset Management  
Greg Aiken, Zions Wealth Advisors

**Minutes of December Meeting**

The minutes of the December 19, 2013 meeting were approved unanimously.

**Monthly Reports**

**Securities Division:**

Ms. Black informed the Council that there was one new addition to the Certified Dealers list, the firm of RW Baird & Co with two agents. She noted for the Council that there were no changes to the Certified Investment Advisers list. Council reviewed the list briefly.

**Financial Institutions' Report:**

Mr. Bay then reviewed the monthly report as of December month end noting that two banks are currently utilizing over 50% of their maximum allotment and informed the Council that a letter had been sent to them on November 26, 2013. Mr. Bay informed the Council that there were no other changes of note. Council discussed the report briefly.

**Late Deposit and Investment Report Update:**

Ms. Pedroza noted for the Council that there are 29 reports that have not been filed for the June 2013 reporting period.

**Review of Enforcement Actions:**

Mr. Damschen informed the Council that there were no new enforcement actions since the last meeting. He also informed the Council that he had contacted First National Bank of Layton and they were still under enforcement action.

**Acceptance of Reports:**

It was motioned and seconded, and all of the above reports were accepted unanimously.

**Five Year Rule Review of Rule 19**

Council briefly discussed Rule 19-Requirements for the Use of Investment Advisers by Public Treasurers and noted no changes. They then asked the public in attendance if they had any

discussion issues regarding the rule. Those in attendance had no issues with the Rule. After brief discussion Council voted unanimously to continue the rule for another five years.

### **Other Business**

Mr. McRae then made the Council aware that his appointed as Bountiful City Treasurer is up on February 3, 2014 and he will resign from the Council as of that date.

Ms. Pedroza informed the Council that one comment had been received on one of the new rules, Rule 21-Requirements for use of Reciprocal Deposits. Ms. Pedroza asked the Council if they wanted to consider this in the next meeting. Council agreed and asked that the rule not be made effective until after the comments are considered.

Mr. Watkins asked that a discussion with the University of Utah be added to next month's agenda.

### **Schedule Next Meeting**

The Council then scheduled the next meeting for February 20, 2014 at 3:00 p.m. in the offices of US Bank at 170 South Main St, Suite 600. With no other business before the Council, they adjourned at 3:32 p.m.



Ann Pedroza &lt;apedroza@utah.gov&gt;

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**Re: MM Council agenda**

1 message

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**Michele Black** <mblack@utah.gov>  
To: Ann Pedroza <apedroza@utah.gov>

Tue, Feb 18, 2014 at 8:49 AM

Ann,

I will not be attending the meeting on Thursday. I have nothing new to report.

Thanks,  
Michele

On Fri, Feb 14, 2014 at 11:29 AM, Ann Pedroza &lt;apedroza@utah.gov&gt; wrote:

All:

Attached is the agenda for next Thursday's meeting. As you all know, the meeting is being held off the Hill.  
Here are the instructions for location and access to parking:US Bank Building  
170 South Main Street  
6th Floor

Parking: Our parking garage is on 2nd South by Capital Theater. There is road construction going on there, so it is not the easiest place to navigate.

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Mark has asked that the University be placed on the agenda but will not be sure if they will be at the meeting or not until Tuesday. If they do not attend we will scratch that item. Any other questions let me know.

Ann

12/31/13  
Late D&I reports  
As of 02/20/14

Alpine City  
Centerville City  
Clearfield City  
Delta City  
East Carbon City  
Eureka City  
Lewiston City  
Mendon City  
Moroni City  
Parowan City  
Payson City  
Riverdale City  
River Heights City  
Roy City  
St George City  
Salem City  
Sunset City  
Tremonton City

Cache Co  
Emery Co  
Summit Co

College/Young MAD #1  
Salt Lake City MAD  
West Millard MAD  
Antimony Cemetery  
Ben Lomond Cemetery  
East Garland Cemetery  
Escalante Cemetery  
Garden City Cemetery  
Garland Cemetery  
Liberty Cemetery  
Monticello Cemetery  
Richmond Cemetery  
South Summit Cemetery  
Willard Cemetery  
Woodruff Cemetery

Wasatch Front Regional Council  
Carbon Co Housing Auth

Clearfield Housing Auth  
Ogden Housing Auth  
Tooele Co Housing Auth  
Canyonlands Healthcare ss Dist  
Delta City Fire  
Emery Co Fire Prot SS Dist  
Juab SS Fire Protec Dist  
Summit Co Interlocal Fin Auth  
Southern Utah Valley Power  
Wasatch Co Fire Protec SSD

Park City Education Foundation  
Washington Co S/D Foundation

Box Elder S/D  
Carbon S/D  
Murray S/D  
SLC S/D  
So Sanpete S/D  
Tintic S/D  
Washington S/D

Austin Community SS Dist  
Beaver Co Waste Mgt S/D#5  
Beaver Dam Village SS Dist  
Dixie Deer SS Dist  
Duchesne Co SS Dist #2  
Elk Meadow SS Dist  
Emery Co SS Dist #1  
Emery Co Rec SS Dist  
Iron Co SS Dist #3  
Juab Co SS Dist #1  
Millard Co SS Dist #8  
Neola Community Park Dist  
North Fork SS Dist  
Northern Utah Regional Landfill  
North Sanpete Ambulance Service  
Ogden Valley Trans/Rec SS Dist  
Peoa Rec SS Dist  
Pinon Forest SS Dist  
Sevier Co SS Dist #1  
South Rim SS Dist

South Utah Valley Solid Waste Dist  
Summit SS Dist  
Tabby Valley Pks & Rec Dist  
UTOPIA  
Washington Co Solid Waste SSD#1  
Wayne Co Sanitation SS Dist  
Weber Human Services  
West Erda Imp Dist  
White Hills SS Dist

Altamont Town  
Cedar Fort Town  
Circleville Town  
Clawson Town  
Elwood Town  
Francis Town  
Genola Town  
Goshen Town  
Hildale City  
Leeds Town  
Lyman Town  
Rocky Ridge Town  
Scipio Town  
Tabiona Town  
Vineyard Town  
Virgin Town  
Wallsberg Town

Ogden Weber ATC  
Utah Valley University  
Utah State University  
Mountainland ATC  
Bluff Water Works SS Dist  
Box Elder Co Serv Area #2  
Box Elder/Willard Fld Drain Dist  
Perry City Flood Control  
Bristlecone Water Imp Dist  
Cache Do Drain Dist #6  
Corinne Drain Dist #1  
Daggett Wtr Dist  
E Duchesne Culi Wtr Imp Dist  
East Juab Co Wtr Conserv Dist  
East Lewiston Drain Dist #4  
Elwood Drainage Dist  
Granger-Hunter Imp Dist  
Hansel Valley Wtrshd Dist

Lake Shore & Benjamin Drain Dist  
Mapleton Irr Co  
Millard Co Drain Dist #4  
Millard Co Wtr Conserv Dist  
Mountain Green Swr Imp Dist  
Mountain Regional Wtr SS Dist  
Neola Wtr & Swr Dist  
Powder Mtn Wtr/Swr Imp Dist  
Provo Metro Wtr Dist  
Rush Valley Wtr Conserv Dist  
Sanpete Co Wtr Conserv Dist  
South Utah Valley Muni Wtr Assoc  
Timberlakes Wtr SS Dist  
Weber Basin Wtr Conserv Dist  
Weber Co Serv Area #5(Liberty Pk)

American Leadership Academy  
Early Light Academy  
East Hollywood High School  
Fast Forward Charter High  
Freedom Academy  
George Washington Academy  
Hawthorn Academy  
Highmark Charter School  
Earl G Maeser Prep Academy  
Leadership Learning Academy  
Liberty Academy  
Maria Montessori Academy  
Monticello Academy  
North Davis Prep Academy  
North Star Academy  
Ogden Prep Academy  
Mountain Heights Academy  
Jefferson Academy  
Pinnacle Canyon Academy  
Quest Academy  
Syracuse Arts  
Thomas Edison-North & South  
Timpanogos Academy  
Utah Virtual Academy  
Wasatch Peak Academy

 **Promontory**  
**Interfinancial Network, LLC**

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[www.promnetwork.com](http://www.promnetwork.com)

To: Utah Money Management Council  
Attn: Ann Pedroza  
PO BOX 142315  
Salt Lake City, UT 84114-2315

From: Promontory Interfinancial Network, LLC  
1515 N. Courthouse Road  
Arlington, VA 22201

Subject: Comments on Draft Rule R628-21

Date: 1/15/2014

These comments are submitted by Promontory Interfinancial Network, LLC ("Promontory") addressing a provision in Draft Rule R628-21, recently made available by the Utah Money Management Council for comment by interested parties. Promontory is a Delaware limited liability company, headquartered in Arlington, Virginia, which offers services for the placement of public, private and institutional funds in reciprocal bank deposits.

These comments relates to two complementary deposit placement services of Promontory: the Certificate of Deposit Account Registry Service, or CDARS, and the Insured Cash Sweep service, or ICS. Promontory offers these services to financial institutions that have entered into an agreement with Promontory to place and receive customer deposits. Through propriety deposit allocation algorithms developed by Promontory, CDARS and ICS permit financial institutions to assist their customers who have funds in excess of the Federal Deposit Insurance Corporation's basic deposit insurance limit of \$250,000 to place those funds at other FDIC-insured depository institutions in amounts within the deposit insurance limit. When a depositor's funds are placed by a financial institution through a CDARS or ICS Reciprocal Transaction, the financial institution will receive matching deposits from customers of other financial institutions that are also are participating in the service. The placement of public funds through CDARS and ICS will thus be in full compliance with the recent amendments to the Utah State Money Management Act in §§51-7-3(31); 51-7-11(o); and 51-7-17(4)(b).

In conjunction with The Bank of New York Mellon ("BNYMellon"), Promontory offers the CDARS and ICS services pursuant to separate agreements with each financial institution. BNYMellon serves in CDARS as issuing agent, sub-custodian, settlement agent and recordkeeper, and in ICS as sub-custodian, settlement agent, reconciliation agent, and recordkeeper, for financial institutions receiving and placing deposits using one or both of these services.

Draft Rule R628-21 of the Money Management Council is intended to implement 2013 amendments to the State Money Management Act, authorizing public treasurers to invest funds in reciprocal deposits through qualified depositories that use a deposit account registry service. The effect of the

2013 amendments will be to enable public treasurers of the state and political subdivisions to arrange for the deposit of public funds in FDIC-insured accounts in multiple depository institutions, through services such as CDARS and ICS. By placing deposits through these services in accordance with amendments to the Act and Regulations, public treasurers will be able work with a single Utah qualified depository for the deposit of relatively larger amounts of public funds that will be fully insured by the FDIC.

The enactment of the 2013 amendments to the Act brings Utah into line with all but one other state<sup>1</sup> and the District of Columbia that authorize the deposit of public funds in FDIC insured certificates of deposit in multiple banks throughout the country through a reciprocal deposit placement service. Since the introduction of CDARS in early 2003, many billions of dollars of FDIC-insured public deposits have been placed through CDARS, and not one cent of these insured deposits has been lost.

In response to interest expressed by many government treasurers in a vehicle that would be more liquid than CDARS but that otherwise would have the features of safety, reciprocal deposits and convenience of CDARS, Promontory developed ICS in 2010. With this service, depositors are able to place funds through a local bank into FDIC-insured money market deposit accounts or demand deposit accounts in participating banks in other states.

Depositors placing funds through the ICS demand option have daily access to their funds and may withdraw funds without penalty from their demand deposit account at any time. Depositor funds placed through the ICS savings option are placed in FDIC insured money market deposit accounts from which funds may be withdrawn up to six times a month, again without penalty.

The ICS demand and savings options, with their greater liquidity, have been particularly popular with government treasurers since the FDIC TAG program was allowed to terminate at the end of 2012. Indeed, public funds laws in all but about seven states have been interpreted or amended within the past three years to authorize the deposit of public funds into money market deposit accounts or demand deposit accounts through a reciprocal deposit placement service such as ICS.

However, there is one feature of draft Rule628-21 that would significantly limit the availability of such services as CDARS and ICS for the deposit of public funds by public treasurers in Utah. Rule628-21-6 would provide that the maximum amount of any public treasurer's portfolio that can be invested in reciprocal deposits shall be not more than 10% of portfolios of \$10,000,000 or less; not more than \$1,000,000 for portfolios between \$10,000,000 and \$20,000,000; and not more than 5% of portfolios of \$20,000,000 or more.

The purported rationale for these limitations is not set forth in the draft rule or in the 2013 amendments to Sections 5-7-11(3)(o) and 51-7-17(4)(b) of the Act. On the basis of Promontory's experience with CDARS and ICS in other states, however, it seems certain that these limitations could very significantly interfere with the preferences of many public treasurers in deciding upon their best investment and deposit choices. None of the other investment/deposit options authorized for public treasurers listed in the Money Management Act are subject to similar limitations. The only

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<sup>1</sup> The New Mexico Constitution is interpreted by the State to require that public funds be deposited only in banks in New Mexico, thereby precluding the placement of deposits through a reciprocal deposit service that provides a means for a public depositor to obtain FDIC insurance coverage on substantial amounts by placing the funds in multiple banks throughout the country.

comparable set of investment limitations that we can identify are found Rule28-17-5 of the Rules of the Money Management Council, which provides:

“R628-17-5. General Rule. The maximum amount of any public treasurer’s portfolio which can be invested in a single issuer of commercial paper and corporate obligations shall be as follows:

1. Portfolios of \$10,000,000 or less may not invest more than 10% of the total portfolio with a single issuer.
2. Portfolios greater than \$10,000,000 but less than \$20,000,000 may not invest more than \$1,000,000 in a single issuer.
3. Portfolios of \$20,000,000 or more may not invest more than 5% of the total portfolio with a single issuer.

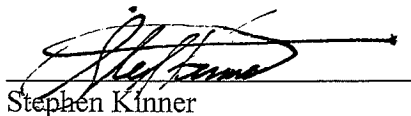
The amount or percentages used in determining the amount of commercial paper and or corporate obligations a treasurer may purchase shall be determined by the book value of the portfolio at the time of purchase.”

It appears that the limitations in Draft Rule628-21-6 may be based on those prescribed in R628-17-5, but the deposit of public funds in financial institutions in accordance with Draft Rule628-21-6 is in no way comparable to an investment in a single issuer of commercial paper.

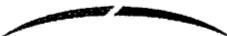
- Whereas the R628-17-5 limitations apply to a single issuer of commercial paper, funds invested in reciprocal deposits pursuant to §51-7-17(4)(b) will be placed in multiple banks throughout the country, with each deposit in an amount within the FDIC-insured deposit limit of \$250,000. For example, \$10,000,000 of funds placed in reciprocal deposits under §51-7-17(4)(b) (assuming that R628-21-6 is not adopted by the Council) would be placed in more than 40 different banks, in amounts of less than \$250,000 each.
- Even more importantly, each one of those 40 deposit accounts would be fully eligible for FDIC insurance protection, in contrast with funds placed in commercial paper issued by a single issuer.
- Whereas a number of the investment options available to a public treasurer under §51-7-11 would be expected to take the amount of the investment out of Utah, investment of funds through reciprocal deposits will necessarily assure that the amount of the treasurer’s deposit will be matched by the same amount coming into the Utah qualified depository.
- Further, CDARS and ICS allow banks without collateral to bid for public unit deposits, thereby increasing the competition for public deposits and benefiting the public entities.

We can see no reason whatsoever why a Council Rule should so severely restrict the discretion of a public treasurer to place funds on a short or longer term basis into ICS demand deposit accounts or money market deposit accounts. The highly liquid, convenient and safe nature of these investment/deposit vehicles make them ideal for placement of municipal funds from any number of sources. And in any event, public treasurers will of course be subject to the requirements of §51-7-11, the general investment criteria of §51-7-17, and the prudent man rule of §51-7-14.

In short, we urge that the Money Management Council omit the restrictions in R628-21-6 of the Draft Rule.



Stephen Kinner  
Managing Director  
Promontory Interfinancial Network, LLC



UTAH BANKERS  
ASSOCIATION

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Utah Money Management Council  
Attn: Ann Pedroza  
PO BOX 142315  
Salt Lake City, UT 84114-2315

Dear Members of the Council,

We appreciate the opportunity to provide the Council with comments on Draft Rule R628-211115/2014. We are so appreciative of the time the council has spent to implement recent amendments to the Utah State Money Management Act in §§51-7-3(31); 51-7-11(o); and 51-7-17(4)(b).

The UBA is a big proponent of the current allocation system. It has served state and local governments in Utah very well and appropriately balances risks and returns on public funds in Utah. We compliment the council for the effective way they have administered the allocation system during a very difficult economic recession.

The proposed rule will only enhance options available to public treasurers by providing them with an ability to achieve 100% FDIC coverage for public funds when necessary. This too is prudent and will be important under certain circumstances. However, we would caution the council against adopting the limitation included in the proposed rule that limits the maximum amount of any public treasurer's portfolio that can be invested in reciprocal deposits shall be not more than 10% of portfolios of \$10,000,000 or less; not more than \$1,000,000 for portfolios between \$10,000,000 and \$20,000,000; and not more than 5% of portfolios of \$20,000,000 or more.

Applying such a limitation to FDIC insured deposits in a reciprocal deposit placement service at this time is not necessary. Such a limit imposed in this program's infancy could dramatically distort the viability of the program. Moreover, there is no indication that such a limitation would be necessary in the current market conditions.

We are concerned that such a limitation on a public treasurer's ability to achieve 100% insurance on all public deposits could be misconstrued and in comparison draw new attention and scrutiny to the risks associated with our most successful allocation system. We encourage you to reconsider the risks you have associated with a reciprocal deposit placement service. If these risks were truly sufficient to warrant the significant limitation included in the proposed rule, surely other states would have limited the program as well and the FDIC would not allow its insured depositories to make claims of 100% coverage to their customers.

We feel that it would be most prudent to allow this program to move forward as it has been rolled out in other states and if some pattern of behavior arises that is of concern to the council, we would encourage you to take action then, but in a fashion that is more precise and more suitable to those circumstances.

Again, thank you for your efforts to protect Utah's public deposits. The council has performed an invaluable service that few citizens understand and appreciate. The allocation system that you have administered has been an example to every other state and a great benefit to taxpayers, but has required diligent and prudent oversight by the council. Thank you for your efforts.

Sincerely,



Howard M. Headlee  
President & CEO

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Louise P. Kelly  
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Utah Bankers Association